

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ALLSTATE INSURANCE COMPANY, et al.	:	CIVIL ACTION
	:	
v.	:	
	:	NO. 09-5208
STEPHEN M. RIOS, D.C., et al.	:	

MEMORANDUM AND ORDER RE: MOTION FOR SUMMARY JUDGMENT

Baylson, J.

December 15, 2010

Plaintiffs Allstate Insurance Company, Allstate Indemnity Company, Allstate Property & Casualty Company, Allstate Property & Casualty Insurance Company, and Allstate New Jersey Insurance Company (collectively, “Plaintiffs” and/or “Allstate”) brought the following claims in their Complaint (ECF No. 1), filed November 6, 2009, relating to an expansive insurance fraud scheme: Count I, violations of 18 U.S.C. § 1962(c); Count II, violations of 18 U.S.C. § 1962(d); Count III, violations of 18 Pa.C.S. § 4117; Count IV, unjust enrichment; and Count V, common law fraud.

Plaintiffs named two categories of Defendants in this case. Chiropractor Stephen M. Rios, D.C. and Rios Chiropractic Center, P.C., of which Rios was the sole owner, director, officer, shareholder, and/or employee, allegedly submitted fraudulent insurance claims to Allstate. Defendants JR Auto Body & Collision, Jerry Blassengale, Jr., Walter Morris, Reynaldo Rivera, Christopher Rosales, Rosario Tedesco, Jr., and Rosario Tedesco, Sr., allegedly acted as “runners” by referring individuals to Rios for treatment, in exchange for financial benefit.

The majority of the Defendants have been dismissed or defaulted. Default was entered against Defendants Jerry Blassengale, Jr. and Reynaldo Rivera for failure to appear, plead, or

otherwise defend on January 5, 2010. Default was entered against Defendant Rosario Tedesco, Jr. for failure to appear, plead, or otherwise defend on February 5, 2010. Default was entered against Defendant JR Auto Body & Collision for failure to appear, plead, or otherwise defend on March 1, 2010. On July 14, 2010, Defendant Wallace Morris was dismissed for failure of service of process, and Defendant Rosario Tedesco, Sr. was dismissed as he is deceased. (ECF No. 54)

On July 14, 2010, Chief Judge Harvey Bartle III, who was presiding over this civil case, entered an order staying these proceedings pending the resolution of the related criminal case UNITED STATES OF AMERICA v. RIOS, et al. (No. 10-cr-95), over which this Court presides. (ECF No. 55) On November 23, 2010, Rios entered a guilty plea in the criminal case. (No. 10-cr-95, ECF No. 236) Rios agreed to plead guilty to Counts 1, 6, 7, 9-11, 15-18, 21-26, 30, 34, and 36-40 of the indictment charging him with mail fraud, in violation of 18 U.S.C. § 1341, arising out of his falsifying chiropractic treatment records and billing for fictitious services purportedly provided to alleged accident victims in order to obtain more money for himself and in order to obtain higher civil settlement payments for the alleged accident victims. Rios agreed to pay a fine as directed by the Court and to make restitution of \$104,450. Following Rios's plea, these civil proceedings were reassigned from Chief Judge Bartle to this Court for further resolution.

Presently before the Court in this civil action is Plaintiffs' Motion For Summary Judgment and Separate and Final Judgment Against Defendants, Stephen M. Rios, D.C. and Rios Chiropractic, P.C., filed on June 21, 2010 (ECF No. 50) and the accompanying Memorandum of Law (ECF No. 51). Plaintiffs contend that they were injured by Defendants' pattern of fraudulent conduct, which included submitting invoices for chiropractic treatments that were

never rendered to the patients and receiving payments on those fraudulent invoices from Allstate, intentionally making fraudulent misrepresentations to Allstate regarding the nature of the services purportedly provided to patients; and failing to treat patients' primary injuries or otherwise providing unnecessary chiropractic treatment in order to bill additional services to Allstate. Defendants allegedly used the U.S. Mail to submit their fraudulent invoices, reports, and other documents to Allstate in support of their reimbursement claims.

Plaintiffs aver that there is no disputed issue of material fact as to whether Defendants Rios and Rios Chiropractic Center committed these fraudulent acts. Plaintiffs seek a judgment of \$2,129,326.17 (actual damages \$709,775.39 trebled pursuant to 18 U.S.C. § 1964(c) and 18 Pa.C.S. § 4117), plus interest, costs, and attorneys' fees. Defendants have not responded to this motion for summary judgment, although it was filed nearly six months ago.

Given that Rios has pled guilty to related charges in the criminal case pertaining to this same insurance fraud scheme, this Court will grant summary judgment as to the liability of Stephen M. Rios, D.C., and Rios Chiropractic Center, P.C. in this civil action. However, this Court will defer ruling as to damages until after the sentencing of Rios in the criminal case and the completion of the investigation into his assets by the United States Attorney, for purposes of his restitution payment and possible imposition of a criminal fine. The civil case will remain in suspense. In an unrecorded telephone conference on December 13, 2010, counsel for the parties agreed to this result. An appropriate Order follows.

AND NOW, this 15th day of December, 2010, it is hereby ORDERED that:

1. Plaintiffs' Motion For Summary Judgment and Separate and Final Judgment Against Defendants, Stephen M. Rios, D.C. and Rios Chiropractic, P.C. (ECF No. 50) is GRANTED as to the liability of Stephen M. Rios, D.C. and Rios Chiropractic Center, P.C.

2. Ruling on the entry of a separate and final judgment for damages is DEFERRED until this Court holds an assessment of damages hearing, which will be scheduled after the sentencing of Stephen M. Rios in UNITED STATES OF AMERICA V. RIOS, ET AL., No. 10-cr-95.

3. This case remains in the Civil Suspense File.

BY THE COURT:

s/Michael M. Baylson

Michael M. Baylson, U.S.D.J.

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